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(7) Any exploration for fissionable source materials beyond the reconnaissance phase or the extraction or processing of fissionable source material;

(8) The drilling of a well for the testing of an oil or natural gas reservoir, or for the extraction of oil or natural gas;

(9) Any low-level radioactive waste disposal facility proposed for construction under 10 V.S.A. chapter 161 regardless of the acreage involved; and,

(10) Any construction of improvements which is likely to generate low-level radioactive waste, regardless of the acreage involved. (Subsections (9) and (10) added, effective January 2, 1996.) (See 10 V.S.A. Section 6001b.)

(B) "Subdivision" means a person's partitioning or dividing a tract or tracts of land into ten or more lots including all other lots which that person has created through subdivision within an environmental district, or within a five mile radius of any point of subdivided land if any lots have been created in any adjoining district, within any continuous period of five years after April 4, 1970. "Subdivision" shall also mean any material change to an existing subdivision over which a district commission or the board has jurisdiction and any substantial change to a pre-existing subdivision. A subdivision shall be deemed to have been created with the first of any of the following events: (Amended, effective May 4, 1990.)

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(1) The sale or offer to sell or lease the first lot within a tract or tracts of land with an intention to sell, offer for sale, or lease 10 or more lots. A person's intention to create a subdivision may be inferred from the existence of a plot plan, the person's statements to financial agents or potential purchasers, or other similar evidence;

(2) The filing of a plot plan on town records;

(3) The sale or offer to sell or lease the tenth lot of a tract or tracts of land, owned or controlled by a person, when the lot is within an environmental district or within a five mile radius of any point on any other lot created by that person within any continuous period of five years after April 4, 1970.

(Amended, effective May 4, 1990.)

(C) "Commencement of construction" means the construction of the first improvement on the land or to any structure or facility located on the land including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in any way incidental to altering the land according to a plan or intention to improve or to divide land by sale, lease, partition, or otherwise transfer an interest in the land.

(D) "Construction of improvements" means any physical action on a project site which initiates development for any purpose enumerated in Rule 2(A). Activity which is principally for preparation of plans and specifications that may be required and necessary for making application for a permit, such as test wells and pits (not including exploratory oil and gas wells),

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percolation tests, and line-of-sight clearing for surveys may be undertaken without a permit, provided that no permanent improvements to the land will be constructed and no substantial impact on any of the 10 criteria will result. A district commission or the board may approve more extensive exploratory work prior to issuance of a permit after complying with the notice and hearing requirements of Rule 51 herein for minor applications.

(E) "State, county or municipal purposes" means projects which are undertaken by or for the state, county or municipality and which are to be used by the state, county, municipality, or members of the general public.

(F) "Involved land" includes:

(1) The entire tract or tracts of land upon which the construction of improvements for commercial or industrial purposes occurs; and

(2) Those portions of any tract or tracts of land within a radius of five miles owned or controlled by the same person or persons, which is incident to the use of the project; and

(3) Those portions of any tract or tracts of land within a radius of five miles owned or controlled by the same person or persons, which bear some relationship to the land actually used in the construction of improvements, such that there is a demonstrable likelihood that the impact on the values sought to be protected by Act 250 will be substantially affected by reason of that relationship.

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In the event that a project is to be completed in stages according to a plan, or is part of a larger undertaking, all land involved in the entire project shall be included for the purpose of determining jurisdiction. (Amended, effective March 11, 1982)

(G) "Substantial change" means any change in a development or subdivision which may result in significant impact with respect to any of the criteria specified in 10 V.S.A. § 6086(a)(1) through (a)(10).

(H) "Person" is defined at 10 V.S.A. §6001(14)(A) and (B). (Amended, effective January 2, 1996.)

(I) "Dwelling" means any building or structure or part thereof, including but not limited to hotels, rooming houses, dormitories and other places for the accommodation of people, that is intended to be used and occupied for human habitation.

(J) "Lot" means any undivided interest in land, whether freehold or leasehold, including but not limited to interests created by trusts, partnerships, corporations, cotenancies and contracts.

(K) "Party" means any person designated as a party under the Act or Rule 14 of these rules. (Amended, effective January 2, 1996.)

(L) "Commercial purpose" means the provision of facilities, goods or services by a person other than for a municipal or state purpose to others in exchange for payment of a purchase price, fee, contribution, donation or other object having value.

(Added, effective July 15, 1974.)

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(M) "Commercial Dwelling" means any building or structure or part thereof, including but not limited to hotels, motels, rooming houses, nursing homes, dormitories and other places for the accommodation of people, that is intended to be used and occupied for human habitation on a temporary or intermittent basis, in exchange for payment of a fee, contribution, donation or other object having value. The term does not include conventional residences, such as single family homes, duplexes, apartments, condominiums or vacation homes, occupied on a permanent or seasonal basis. (Added, effective March 11, 1982.)

(N) "Pre-existing subdivision" shall mean a subdivision exempt under the regulations of the department of health in effect on January 1, 1970 or any subdivision which had a permit issued prior to June 1, 1970 under the board of health regulations, or had pending a bona fide application for a permit under the regulations of the board of health on June 1, 1970, with respect to plans on file as of June 1, 1970 provided such permit was granted prior to August 1, 1970.

(O) "Pre-existing development" shall mean any development in existence on June 1, 1970 and any development which was commenced before June 1, 1970 and completed by March 1, 1971.

(P) "Material change" means any alteration to a project which has a significant impact on any finding, conclusion, term or condition of the project's permit and which affects one or more values sought to be protected by the Act.

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(Q) "Solid waste management district" means a solid waste management district formed pursuant to § 2202a and chapter 121 of Title 24, or by charter adopted by the general assembly.

(R) "Adjoining property owner" means a person who owns land in fee simple, if that land:

(1) shares a boundary with a tract of land where a proposed or actual development or subdivision is located: or

(2) is adjacent to a tract of land where a proposed or actual development or subdivision is located and the two properties are separated only by a river, stream, or a public highway. (§§ (Q) and (R) Added, effective January 2, 1996.)

Rule 3. Rulemaking, Jurisdictional Opinions and Declaratory Rulings

(A) Authority for rules and declaratory rulings. The authority to adopt rules and to act upon petitions for declaratory rulings is vested solely in the board.

(B) Petitions for rulemaking. Petitions for the adoption, amendment or repeal of any rule will be entertained by the board. Petitions will be considered and disposed of pursuant to the procedures specified in the Administrative Procedure Act, 3 V.S.A. Chapter 25.

(C) Jurisdictional opinions. Any person seeking a ruling as to the applicability of 10 V.S.A. Chapter 151 (Act 250), these rules or order of the board may request a jurisdictional opinion from a district coordinator in the appropriate environmental district. In addition, district coordinators may issue

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jurisdictional opinions when, in their judgment, the applicability of Act 250, these rules or an order of the board needs to be determined.

(1) If the person who requested the opinion wants it to be a final determination, the district coordinator, at the expense of the requestor, shall serve the opinion on all persons identified in writing by the requestor, or known to the coordinator, as either qualifying as parties under Rule 14(A) or who may be affected by the outcome of the opinion.

(2) Persons who qualify as parties under Rule 14(A) or who may be affected by the outcome of the opinion may request reconsideration from the district coordinator within 30 days of the mailing of the opinion. The filing of a timely request for reconsideration shall stop the period for appeal. A new full period for appeal shall begin on the date of a refusal to reconsider or, if reconsideration is accepted, on the date the reconsidered opinion is mailed.

(3) A jurisdictional opinion of a district coordinator may be appealed to the environmental board by any person who qualifies as a party under Rule 14(A) or who may be affected by the outcome of the opinion. Such appeals shall be by means of a petition for a declaratory ruling under section (D) of this rule. An appeal from a jurisdictional opinion issued by a district coordinator must be filed with the board within 30 days of mailing of the jurisdictional opinion to the person appealing. Failure to appeal within the prescribed period shall render the

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opinion final for all persons to whom it has been mailed. A district coordinator may reconsider, or accept a request for reconsideration of, a jurisdictional opinion at any time upon an adequate showing of a failure to disclose material facts or fraud

(D) Declaratory rulings. Petitions for declaratory rulings as to the applicability of Act 250, these rules, or an order of the board shall be filed with the board and shall be accompanied by a \$25.00 filing fee, an original and ten copies of the petition and the jurisdictional opinion appealed from, and a certificate showing that the following persons have been served: all parties under Rule 14(A) and any other persons on whom the district coordinator served the opinion. Petitions for declaratory ruling will be considered and disposed of promptly. A petition may be treated as a petition for adoption of rules or as a contested case as may be proper under the circumstances. The chair may issue preliminary rulings subject to timely objection of any party in interest, in which event the matter shall be considered by the board.

(1) Notice of declaratory rulings. The board shall provide due notice of the filing of a petition for declaratory ruling to each party under Rule 14(A) and to any other persons on whom the district coordinator served the relevant jurisdictional opinion. At the cost of the petitioner, the board will publish a notice of the hearing or initial prehearing conference in a local newspaper generally circulating in the area in which the land is located.

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(2) Reconsideration of declaratory rulings. The board may reconsider a declaratory ruling. Any request for reconsideration must be received within 30 days from the date of the declaratory ruling in accordance with Rule 31(A) of these rules, unless the board finds an adequate showing of failure to disclose material facts or fraud. (§§ 3(A), (B), (C) and (D) amended, effective January 2, 1996.) See 10 V.S.A. § 6007(c).

Rule 4. Subpoenas

The chair of the board, the chair of a district commission, or a licensed attorney representing a party before the board or a district commission may compel, by subpoena, the attendance and testimony of witnesses and the production of books and records. A party not represented by a licensed attorney may submit a written request for a subpoena stating the reasons therefor and representing that reasonable efforts have been made to obtain voluntary compliance with its requests. Costs of service, fees, and compensation shall be paid in advance by the party requesting the subpoena. The board or a district commission may issue subpoenas for the attendance of witnesses or the production of documents on its own motion. In all other respects, the provisions of Rule 45, §§ (a) and (b), of the Vermont Rules of Civil Procedure and 3 V.S.A., §§ 809a and 809b, shall apply and are incorporated herein. (Amended, effective March 11, 1982; May 4, 1990; and January 2, 1996.)

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Rule 6. Computation of Time

In computing any period of time prescribed or allowed by Act 250, these rules, or an order of the board or district commissions, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless this day is a Saturday, Sunday, State legal holiday, or the day after Thanksgiving, in which event the period runs until the end of the next day which is not a Saturday, Sunday, State legal holiday, or the day after Thanksgiving. (Added, effective May 4, 1990.)

Whenever a person has the right or is required to file a document within a prescribed period after the service of paper on the person and the paper is served on the person by mail, the period shall begin to run three days after the date on which the paper was postmarked, unless the board or district commission served the paper or set a specific date by which the person must file. (Amended, effective January 2, 1996.)

**ARTICLE II. PROCEDURE BEFORE THE DISTRICT
COMMISSIONS AND ENVIRONMENTAL BOARD**

Rule 10. Permit Applications

(A) An application shall be signed by the applicant and any co-applicant, or an officer or duly-appointed agent thereof. The record owner(s) of the tract(s) of involved land shall be the applicant(s) or co-applicant(s) unless good cause is shown to support waiver of this requirement. When the applicant is a

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municipality or a solid waste management district empowered to condemn the involved land or an interest in it, then the application need only be signed by that party. The application shall list the name or names of all persons who have a substantial property interest, such as through title, lease, purchase or lease option, right-of-way or easement, in the tract or tracts of involved land by reason of ownership or control and shall describe the extent of their interests. The district commission or board may, upon its own motion or upon the motion of a party, find that the property interest of any such person is of such significance that the application cannot be accepted or the review cannot be completed without their participation as co-applicants. (Amended, effective May 4, 1990 and January 2, 1996.)

(B) The board shall from time to time issue guidelines for the use of commissions and applicants in determining the information and documentation that is necessary or desirable for thorough review and evaluation of projects under applicable criteria. The board or a commission may require such additional information or supplementary information as the board or commission deems necessary to fairly and properly review the proposal. If the applicant submits or intends to submit permits or certifications as evidence under Rule 19, the applicant shall, upon request of the board or a commission or upon challenge of a party under Rule 19, submit copies of all materials relevant to such permit or certification. (Amended, effective March 11, 1982.)

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(C) In order to avoid unnecessary or unreasonable costs for applicants and other parties, the board or a district commission may authorize the sequential filing of information for review under the 10 criteria. (Amended, effective March 11, 1982.)

(D) An application that is incomplete in substantial respects shall not be accepted for filing by the district coordinator, and therefore shall not initiate the time and notice requirements of the Act and these rules. A coordinator's decision that an application is substantially incomplete may be appealed in accordance with Rules 3(C)(3) and 3(D) of these rules. A coordinator's decision that an application is complete is for the purpose of initiating the time and notice requirements and cannot be appealed. (Amended, effective May 4, 1990.)

(E) The applicant shall file an original and five copies of the application, and the fee prescribed by Rule 11 with the appropriate district commission. The applicant shall certify by affidavit in the application that the applicant has forwarded notice and copies of the application to the municipality, the municipal and regional planning commissions wherein the land is located and any adjacent Vermont municipality, municipal or regional planning commission if the land is located on a boundary; and the owner of the land if the applicant is not the owner; and the solid waste management district in which the land is located, if the development or subdivision constitutes a facility pursuant to § 6602(10) of 10 V.S.A. and that the applicant has either posted or caused to be posted a copy of

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the notice of application in the town clerk's office of the town or towns wherein the land lies. (Amended, effective March 11, 1982, January 2, 1996 and May 22, 1996.) See 10 VSA § 6084(a).

(F) The applicant shall file with the application a list of adjoining property owners to the tract or tracts of land proposed to be developed or subdivided unless this requirement is waived by the district coordinator, in consultation with the chair of the district commission. Provision of personal notice of the hearing or public comment period to adjoining property owners and persons not listed in section (E) of this Rule by the district commission shall be solely within the discretion and responsibility of the chair of the district commission. The chair of the district commission may authorize a waiver of personal notice of the hearing or public comment period to adjoining property owners by the district commission. Any waiver must be based on a determination that the adjoining property owners subject to the waiver reasonably could not be affected by the proposed development or subdivision and that service to each and every property owner by the district commission would constitute a significant administrative burden without corresponding public benefit. However, personal notice of the hearing or public comment period shall be provided by the district commission to any adjoining property owner who has requested such notice. (Added, effective March 11, 1982; amended January 2, 1996 and May 22, 1996.) See 10 VSA § 6084(b).

(G) The applicant shall be responsible for the cost of

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publication of notice of the application in a local newspaper generally circulated in the area where the land is located. The district commission shall be responsible for the publication of this notice, and publication shall occur not more than seven days after the district commission has received the completed application. The notice shall contain the name of the applicant and his or her address; the location of the proposed development or subdivision, and if a subdivision, the number of lots proposed; the location of the district commission where the application was filed; and the date of filing. The project location specified in the notice shall be sufficiently precise so that a person generally familiar with the area can approximately locate the tract or tracts of land on an official town highway map. The district commission shall provide notice of the application and the date of hearing or public comment deadline to all those listed in section (E) of this rule and 10 V.S.A. § 6084(b), except that provision of personal notice to adjoining property owners by the district commission may be waived by the chair of the district commission as specified in section (F). (Amended, effective March 11, 1982 and January 2, 1996.)

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(H) Applications for amendments to permits shall be on forms provided by the board. Procedural requirements for notice and hearings regarding permit amendments are set forth in Rule 34 of these rules. (Amended, effective March 11, 1982 and January 2, 1996.)

Rule 11. Fees

(A) All applicants shall be directly responsible for the costs involved in the publication of notice in a newspaper of general circulation in the area of the proposed development or subdivision and the costs incurred in recording any permit or permit amendment in the land records as provided by Rule 33; and, shall be subject to a fee for the purpose of compensating the State of Vermont for the direct and indirect costs incurred with respect to the administration of the Act 250 program. (Amended, July 16, 1991; January 3, 1997.)

(1) For projects involving construction, \$4.25 for each \$1,000 of the first \$15,000,000 of construction costs, and \$2.00 for each \$1,000 of construction costs above \$15,000,000; (Amended, effective July 16, 1991.) and

(2) For projects involving the creation of lots, \$50.00 for each lot; (Amended, effective July 16, 1991.) and

(3) For projects involving exploration for or removal of oil, gas and fissionable source materials, a fee as determined under subparagraph (A)(1) or \$1000 for each day of commission and board hearings required for such projects, whichever is the greater; (Amended, effective July 16, 1991.) and

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(4) For projects involving the extraction of earth resources including but not limited to sand, gravel, peat, topsoil, crushed stone or quarried material, a fee as determined under subparagraph (A) (1) or a fee equivalent to the rate of \$.10 per cubic yard of maximum estimated annual extraction, whichever is greater; (Added, effective July 16, 1991.) and

(5) For projects involving the review of a master plan as provided in Rule 21, a fee equivalent to \$.10 per \$1000 of total estimated construction cost in current dollars in addition to the fee established in subparagraph (A) (1) for any portion of the project seeking construction approval. (Added, effective July 16, 1991.)

(6) In no event shall a permit application fee exceed \$135,000. (Amended, January 3, 1997.)

Notwithstanding the above, there shall be a minimum fee of \$100 for original applications and \$25 for amendment applications, in addition to publication and recording costs. These costs shall be in addition to any fee established by statute, unless otherwise expressly stated.

(B) Fees shall not be required for projects undertaken by municipal agencies or by State governmental agencies, except for publication and recording costs. (Amended, effective May 4, 1990.)

(C) All persons filing an appeal or cross appeal from a district environmental commission decision shall pay a fee of \$50, plus publication costs. (Amended, effective May 4, 1990.)

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(D) A written request for an application fee refund must be submitted to the district commission to which the fee was paid within 90 days of the withdrawal of the application. (Amended, January 3, 1997.)

(1) In the event that an application is withdrawn prior to the convening of a hearing, the district commission shall, upon request of the applicant, refund 50 percent of the fee paid between \$100 and \$5,000, and all of that portion of the fee paid in the excess of \$5,000 except that the district commission may decrease the amount of refund if the direct and indirect costs incurred by the State of Vermont with respect to the administration of the Act 250 program clearly and unreasonably exceed the fee that would otherwise be retained by the district commission. (Amended, January 3, 1997.)

(2) In the event that an application is withdrawn after a hearing, the district commission shall, upon request of the applicant, refund 25 percent of the fee paid between \$100 and \$10,000, and all of that portion of the fee paid in excess of \$10,000 except that the district commission may decrease the amount of refund if the direct and indirect costs incurred by the State of Vermont with respect to the administration of the Act 250 program clearly and unreasonably exceed the fee that would otherwise be retained by the district commission. (Amended, January 3, 1997.)

(3) The district commission shall, upon request of the applicant, increase the amount of refund if the application of

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subsections (1) and (2) of this section clearly would result in a fee that unreasonably exceeds the direct and indirect costs incurred by the State of Vermont with respect to the administration of the Act 250 program. (Amended, effective January 3, 1997.)

(4) District commission decisions regarding application fee refunds may be appealed to the board in accordance with Rule 40 of these rules. (Amended, effective January 3, 1997.)

(5) For the purposes of this rule, a "hearing" is a duly warned meeting concerning an application convened by a quorum of the board or district commission, or a hearing officer or panel of the board, at which parties may be present. However, a hearing does not include a prehearing conference.

(Amended, effective March 11, 1982 and January 2, 1996.)

(6) In no event may an application fee or a portion thereof be refunded after a district commission has issued a final decision on the merits of an application. (Added, effective January 3, 1997.)

(7) In no event may an application fee refund include the payment of interest on the application fee. (Added, effective January 3, 1997.)

(E) In the event that an application involves a project or project impacts that previously have been reviewed, the applicant may petition the chair of the district commission to waive all or part of the application fee. If an application fee was paid previously in accordance with subsection (A) (1) through (4) of this rule, the chair may waive all or part of the fee for a new

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or revised project if the chair finds that the impacts of the project have been reviewed in an applicable master permit application, or that the project is not significantly altered from a project previously reviewed, or that there will be substantial savings in the review process due to the scope of review of the previous application(s). (Added March 11, 1982; amended, January 3, 1997.)

(F) A commission or the board may require any permittee to file a certification of actual construction cost and may direct the payment of a supplemental fee in the event an application understated a project's construction cost. Failure to file a certification or to pay a supplemental fee shall be grounds for permit revocation under Rule 38(A).

(G) The costs of republishing a notice due to a scheduling change requested by a party shall be borne by the party requesting the change. (Added, effective June 1, 1990.)

Rule 12. Documents and Service Thereof; Page Limits; Motions and Replies

(A) All applications, notices, petitions, appeals, entries of appearance and other documents filed with the board or district commissions shall be deemed to have been filed when the document is received by the board or a district commission, except that applications which do not contain information required by the application forms and guidelines issued by the board shall be considered filed on the date that all required

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information is received, as provided for in Rule 10 of these rules. (Amended, effective May 4, 1990.)

(B) The board or a district commission may treat any written communication as a document initiating a case for determination. The document initiating a case before the board or a district commission shall be signed by the petitioner or an officer thereof. (Amended, effective May 4, 1990.)

The requirements for content and service of initial documents are specified in these rules as follows: (Amended May 4, 1990.)

Petitions for Rulemaking or Declaratory Rulings: Rule 3

Applications for permits: Rule 10

Applications for permit amendments: Rule 34

Petitions for permit revocation: Rule 38

Appeals: Rule 40

Additional requirements concerning these initial documents are specified in sections (C), (D) and (G) below.

When required by these rules, the service of an initial document by a party shall be made by personal service or by certified mail, except in cases where a different manner of service is required by an applicable provision of law.

(Amended, effective May 4, 1990.)

(C) Each of the following types of documents are to be double-spaced: petitions for declaratory ruling, petitions for rulemaking, notices of appeal, petitions for revocation, motions, initial legal memoranda and briefs, reply memoranda and briefs, proposed findings of fact and conclusions of law, petitions for party status, prefiled testimony, and any pleading filed with the

board.

(D) Documents are to comply with the following page limits:

(1) Motions: no more than five pages.

(2) Notices of appeal; petitions for revocation, declaratory ruling, and party status; memoranda; briefs; and other pleadings: no more than 25 pages.

(3) Reply memoranda, briefs, or other reply pleadings: no more than 25 pages.

(4) Proposed findings of fact and conclusions of law: no more than 50 pages.

(5) There is no limit on prefiled direct or rebuttal testimony or on evidentiary exhibits.

(E) All motions should be accompanied by a supporting memorandum.

(F) Unless otherwise specified in these rules, all memoranda in reply to a motion shall be filed within fifteen days of service of the motion, or within the same number of days in which the movant was required to file, whichever is shorter.

(G) For documents filed with the board, the limits contained in sections (D) and (F) of this rule may be enlarged or extended for reasonable grounds by the chair of the board. If the document is to be filed with the district commission, such enlargement or extension may be granted by the chair of the district commission. Any person seeking to enlarge a page limit or extend a filing deadline must file a written request no later than the applicable deadline. Such requests may not exceed five pages, double-spaced. If the request is to enlarge a page limit, the request may be accompanied by the subject document.

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(H) All proposed findings of fact and conclusions of law should state the location of the supporting evidence in the record and should discuss the applicable legal provisions, showing how each element of a claim is met or not met based on the facts of a case. (Sections (C), (D), (E), (F), (G) and (H) added, effective January 2, 1996.)

(I) The party initiating a case before the board or a district commission shall be responsible for the cost of publication of notice of the proceeding in a local newspaper generally circulating in the area where the land is located. The district commission or board shall be responsible for the publication of the notice.

(J) Every document filed by any party subsequent to the initial document filed in a case shall be served upon the attorneys or other representatives of record for all other parties and upon all parties who have appeared for themselves. Service within this subsection of the rule shall be made upon a representative or a party by delivering a copy in person or by mailing a copy to the last known address of the individual.

(Amended, effective March 11, 1982; May 4, 1990; January 2, 1996)

Rule 13. Hearing Schedules

(A) Scheduling. Hearings on applications and appeals to the board shall be scheduled and held in accordance with the statutory requirements set forth in 10 V.S.A. § 6085, except that an applicant may, with the approval of the board or district commission, waive those requirements. Hearings may be continued

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until all testimony and evidence relating to the criteria set forth in the Act have been presented and all parties have had adequate opportunity in the judgment of the board or district commission to be heard. If additional hearings are required, their scheduling is within the discretion of the district commission or board.

(B) Recesses. Any time prior to adjournment of a hearing by the board or a district commission, a party may petition that the matter be recessed for a reasonable period of time. The board or district commission may, on petition or on its own motion, recess a hearing pending the convening of further hearings, receipt of submissions from parties, conduct of investigations, review of evidence in the record, deliberation or other similar reason. During such period, the applicant may, with due notice to all parties to the application, move to reopen the hearing on any of the criteria specified in 10 V.S.A. § 6086(a)(1) through (a)(10) for the purpose of offering further relevant evidence or testimony.

(C) Order of hearings. To the extent reasonable, the initial hearings on applications and appeals shall be scheduled in the order that completed applications and appeals are filed, unless an applicant waives this priority right.

Rule 14. Parties and Appearances

(A) Parties by right. In proceedings before the board and district commissions, the following persons shall be entitled to party status (Amended, effective May 4, 1990):

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- (1) The applicant;
- (2) The landowner, if the applicant is not the landowner;
- (3) The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality; and if the project site is located on a boundary, any Vermont municipality adjacent to that border and the municipal and regional planning commissions for that municipality; and the solid waste management district in which the land is located, if the development or subdivision constitutes a facility pursuant to § 6602(10) of Title 10; (Amended, effective January 2, 1996.)
- (4) Any state agency directly affected by the proposed project, and any state agency receiving notice of the proceedings through the Interagency Act 250 Review Committee;
- (5) Any adjoining property owner who requests a hearing, or who requests the right to be heard by entering an appearance on or before the first prehearing conference or, if no prehearing conference is held, the first day of a hearing that has previously been scheduled, to the extent that the adjoining property owner demonstrates that the proposed development or subdivision may have a direct effect on the adjoiner's property under any of the 10 criteria listed at 10 VSA § 6086(a). In making a request for party status, an adjoining property owner shall provide the district commissions or the board with the following:
 - (a) A description of the location of the adjoining property in relation to the proposed project, including a map, if

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available; (Added, effective May 4, 1990.)

(b) A description of the potential effect of the proposed project upon the adjoiner's property with respect to each of the criteria or subcriteria under which party status is being requested. (Added, effective May 4, 1990.)

(B) Parties by permission. The board or a district commission may allow as parties to a proceeding individuals or groups, including adjoining property owners, not otherwise accorded party status by statute upon petition if it finds that the petitioner has adequately demonstrated:

(1) That a proposed development or subdivision may affect the petitioner's interest under any of the provisions of § 6086(a) or

(2) That the petitioner's participation will materially assist the board or commission by providing testimony, cross-examining witnesses, or offering argument or other evidence relevant to the provisions of § 6086(a).

(3) A petition for party status under this rule may be made orally or in writing to the district commission and must be made in writing to the board, unless waived by the chair. Any such petition:

(a) must state the details of the petitioner's interest in the proceedings, including whether the petitioner's position is in support of or in opposition to the application, if known;

(b) must, in the case of a petition by an organization, describe the organization, its membership and its purposes; and

(c) must be made to the board or district commission on